

## **REMARKS**

Claims 1, 6 and 11-13 are currently pending in the application. By this amendment, claims 1 and 6 are amended. Support for the amendment to claims 1 and 6 can be found on pages 5, 7 – 8 and throughout the specification.

### **I. Specification**

The Office notes that the specification uses trademarks and points out that trademarks should be capitalized with generic terminology also provided. Office Action mailed September 17, 2009 (“OA”), page 2. Applicant believes that all trademarks are capitalized with generic terminology provided. If the Office disagrees, identification of incorrectly identified trademarks is respectfully requested.

### **II. Obviousness-Type Double Patenting Rejections**

Claims 1, 4-6 and 10-14 stand rejected on the ground of non-statutory obviousness-type double patenting over claims 1-8 of U.S. Patent No. 6,974,807. However, with the claims as amended, it is believed that the present claims are not obvious over the claims of US Patent No. 6,974,807 and withdrawal of the rejection is respectfully requested.

### **III. 35 U.S.C. § 103 Rejections**

#### **A. Claims 1, 6, 12 and 13 over Yamamoto and Nagpal**

Claims 1, 6, 12 and 13 stand rejected under 35 USC § 103(a) as unpatentable over U.S. Patent 5,236,906 (“Yamamoto”), or US Patent No. 6,248,779 (“Shimzu”) and US Patent No. 5,650,279 (“Nagpal”). Applicant respectfully disagrees.

There is nothing in Yamamoto or Shimzu in view of Nagpal which teaches applicant’s invention as currently claimed. Applicant respectfully requests withdrawal of the rejection. None of the references teach a tazarotene gel as currently claimed.

**B. Claims 1, 6, 12 and 13 over Smith, Sequeira and Nagpal**

Claims 1, 6, 11, 12 and 13 stand rejected under 35 USC § 103(a) as unpatentable over U.S. Patent 5,874,074 (Smith), U.S. Patent No. 4,775,529 (Sequeira) and Nagpal. OA, page 6. Applicant respectfully disagrees. None of the listed references teach applicant's invention as currently claimed as none of the references teach a tazarotene gel as currently claimed.

### **CONCLUSION**

Applicant submits that the present application is now in condition for allowance. Applicant hereby respectfully requests a three month extension of time.

If the Examiner has any questions or believes further discussion will aid examination and advance prosecution of the application, a telephone call to the undersigned is invited. If there are any additional fees due in connection with the filing of this amendment, please charge the fees to undersigned's Deposit Account No. 53-3207. If any extensions or fees are not accounted for, such extension is requested and the associated fee should be charged to our deposit account.

Respectfully submitted,

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